

# HOUSE . . . . . No. 887

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and others relative to repeat offenders operating motor vehicles under the influence. The Judiciary.

## The Commonwealth of Massachusetts

### PETITION OF:

Bradley H. Jones, Jr.	Susan Williams Gifford
Mary S. Rogeness	Robert S. Hargraves
George N. Peterson, Jr.	Daniel K. Webster
John A. Lepper	Karyn E. Polito
Viriato Manuel deMacedo	Paul J.P. Loscocco
Elizabeth A. Poirier	Shirley Gomes
Jeffrey Davis Perry	Michael J. Coppola
Donald F. Humason, Jr.	Todd M. Smola
Susan W. Pope	Richard J. Ross

In the Year Two Thousand and Five.

### AN ACT RELATIVE TO REPEAT OFFENDERS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 24 of chapter 90 of the General Laws, as  
2 appearing in the 2002 Official Edition, is hereby amended by  
3 inserting after the word “drivers”, in line 81, the following para-  
4 graph:—  
5 A mandatory condition of any probation or parole that may be  
6 ordered as a result of this paragraph is that the offender shall have  
7 an alcohol assessment conducted by the department of public  
8 health. The assessment shall include, but need not be limited to,  
9 an assessment of the level of the offender’s addiction to alcohol or  
10 drugs, and the department’s recommended course of treatment.  
11 Such assessment shall be reported to the offender’s probation or  
12 parole officer, and the recommendations contained therein shall  
13 become a mandatory condition of his probation or parole. No

14 person shall be excluded from an assessment or recommended  
15 course of treatment for inability to pay, if the offender files an  
16 affidavit of indigency or inability to pay with the court, investiga-  
17 tion by the probation or parole officer confirms such indigency or  
18 establishes that such payment would cause a grave and serious  
19 hardship to the offender or his family, and the court enters written  
20 findings thereof. The department of public health may make such  
21 rules and regulations as are necessary to accomplish the intent of  
22 this assessment.

1 SECTION 2. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “drivers”, in line 115, the following paragraph:—

4 A mandatory condition of any probation or parole that may be  
5 ordered as a result of this paragraph is that the offender shall have  
6 an alcohol assessment conducted by the department of public  
7 health. The assessment shall include, but need not be limited to,  
8 an assessment of the level of the offender’s addiction to alcohol or  
9 drugs, and the department’s recommended course of treatment.  
10 Such assessment shall be reported to the offender’s probation or  
11 parole officer, and the recommendations contained therein shall  
12 become a mandatory condition of his probation or parole. No  
13 person shall be excluded from said assessment or recommended  
14 course of treatment for inability to pay, if the offender files an  
15 affidavit of indigency or inability to pay with the court, the inves-  
16 tigation by the probation or parole officer confirms such indigency  
17 or establishes that such payment would cause a grave and serious  
18 hardship to the offender or his family, and the court enters written  
19 findings thereof. The department of public health may make such  
20 rules and regulations as are necessary to accomplish the intent of  
21 this assessment.

1 SECTION 3. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “drivers”, in line 148, the following paragraph:—

4 A mandatory condition of any probation or parole that may be  
5 ordered as a result of this paragraph is that the offender shall have  
6 an alcohol assessment conducted by the department of public  
7 health. The assessment will include, but need not be limited to, an

8 assessment of the level of the offender's addictions to alcohol or  
9 drugs, and the department's recommended course of treatment.  
10 Such assessment shall be reported to the offender's probation or  
11 parole officer, and the recommendations contained therein shall  
12 become a mandatory condition of his probation or parole. No  
13 person shall be excluded from said assessment or recommended  
14 course of treatment for inability to pay, provided that the offender  
15 files an affidavit of indigency or inability to pay with the court,  
16 that investigation by the probation or parole officer confirms such  
17 indigency or establishes that such payment would cause a grave  
18 and serious hardship to the offender or his family, and that the  
19 court enters written findings thereof. The department of public  
20 health may make rules and regulations as are necessary to accom-  
21 plish the intent of this assessment.

1 SECTION 4. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 "drivers", in line 182, the following paragraph:—

4 A mandatory condition of any probation or parole that may be  
5 ordered as a result of this paragraph is that the offender shall have  
6 an alcohol assessment conducted by the department of public  
7 health. The assessment will include, but need not be limited to, an  
8 assessment of the level of the offender's addictions to alcohol or  
9 drugs, and the department's recommended course of treatment.  
10 Such assessment shall be reported to the offender's probation or  
11 parole officer, and the recommendations contained therein shall  
12 become a mandatory condition of his probation or parole. No  
13 person shall be excluded from said assessment or recommended  
14 course of treatment for inability to pay, provided that the offender  
15 files an affidavit of indigency or inability to pay with the court,  
16 that investigation by the probation or parole officer confirms such  
17 indigency or establishes that such payment would cause a grave  
18 and serious hardship to the offender or his family, and that the  
19 court enters written findings thereof. The department of public  
20 health may make rules and regulations as are necessary to accom-  
21 plish the intent of this assessment.

1 SECTION 5. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by striking out, in lines 351

3 to 352, the words “six months” and inserting in place thereof the  
4 following:— 1 year.

1 SECTION 6. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by striking out, in line 363,  
3 the words “one year” and inserting in place thereof the  
4 following:— 18 months.

1 SECTION 7. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “necessary” in line 370 the following:—

4 A mandatory condition of any hardship license granted by the  
5 registrar pursuant to this paragraph shall be that the person have  
6 an ignition interlock device installed on every vehicle owned by  
7 the person and on every vehicle operated by the person, under  
8 such terms or conditions as the registrar may prescribe. Every  
9 person whose license has been suspended pursuant to this para-  
10 graph shall be required to provide proof to the registrar of installa-  
11 tion of an ignition interlocking device on every vehicle owned and  
12 operated by the person, under such terms and conditions as the  
13 registrar may prescribe, in order for said person’s license or right  
14 to operate being reinstated upon the completion of the suspension  
15 period.

1 SECTION 8. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “necessary” in line 399 the following:—

4 A mandatory condition of any hardship license granted by the  
5 registrar pursuant to this paragraph shall be that the person have  
6 an ignition interlock device installed on every vehicle owned by  
7 the person and on every vehicle operated by the person, under  
8 such terms or conditions as the registrar may prescribe. Every  
9 person whose license has been suspended pursuant to this para-  
10 graph shall be required to provide proof to the registrar of installa-  
11 tion of an ignition interlocking device on every vehicle owned and  
12 operated by the person, under such terms and conditions as the  
13 registrar may prescribe, in order for said person’s license or right  
14 to operate being reinstated upon the completion of the suspension  
15 period.

1     SECTION 9. Said section 24 of said chapter 90, as so  
2     appearing, is hereby further amended by inserting after the word  
3     “necessary” in line 425 the following:—

4     A mandatory condition of any hardship license granted by the  
5     registrar pursuant to this paragraph shall be that the person have  
6     an ignition interlock device installed on every vehicle owned by  
7     the person and on every vehicle operated by the person, under  
8     such terms or conditions as the registrar may prescribe. Every  
9     person whose license has been suspended pursuant to this para-  
10    graph shall be required to provide proof to the registrar of installa-  
11    tion of an ignition interlocking device on every vehicle owned and  
12    operated by the person, under such terms and conditions as the  
13    registrar may prescribe, in order for said person’s license or right  
14    to operate being reinstated upon the completion of the suspension  
15    period.

1     SECTION 10. Said section 24 of said chapter 90, as so  
2     appearing, is hereby amended by adding the following:—

3     Notwithstanding the provisions of any section of this chapter,  
4     any person who after being administered the chemical test set  
5     forth in this section and such evidence indicates that the per-  
6     centage was fifteen one hundredths or more and the person is  
7     before the court for the first time for such offense, upon convic-  
8     tion the court shall order an alcohol assessment conducted by the  
9     department of public health. The assessment will include, but  
10    need not be limited to, an assessment of the level of the offender’s  
11    addictions to alcohol or drugs, and the departmen’s recommended  
12    course of treatment. No person shall be excluded from said assess-  
13    ment or recommended course of treatment for inability to pay,  
14    provided that the offender files an affidavit of indigency or  
15    inability to pay with the court, that investigation by the probation  
16    or parole officer confirms such indigency or establishes that such  
17    payment would cause a grave and serious hardship to offender or  
18    his family, and that the court enters written findings thereof. The  
19    department of public health may make such rules and regulations  
20    as are necessary to accomplish the intent of this assessment.

1     SECTION 11. Said section 24 of said chapter 90 of the General  
2     Laws, as so appearing, is hereby amended by inserting in line 66,

3 after the word “ninety-three” the following words:— provided,  
4 however, that any such intermediate sanction shall consist of not  
5 less than 30 days of community service or not less than 5 days of  
6 imprisonment.

1 SECTION 12. Said section 24 of said chapter 90, as so  
2 appearing, is hereby amended by inserting in line 99, after the  
3 word “ninety-three” the following words:— provided, however,  
4 that any such intermediate sanction shall consist of not less than  
5 60 days of community service or not less than 10 days of impris-  
6 onment.

1 SECTION 13. Said section 24 of said chapter 90, as so  
2 appearing, is hereby amended by inserting in line 133, after the  
3 word “ninety-three” the following words:— provided, however,  
4 that any such intermediate sanction shall consist of not less than  
5 60 days of community service or not less than 10 days of impris-  
6 onment.

1 SECTION 14. Said section 24 of said chapter 90, as so  
2 appearing, is hereby amended by inserting in line 167, after the  
3 word “ninety-three” the following words:— provided, however,  
4 that any such intermediate sanction shall consist of not less than  
5 60 days of community service or not less than 10 days of impris-  
6 onment.

1 SECTION 15. The fifth paragraph of section 24D of said  
2 chapter 90, as so appearing, is hereby amended by inserting after  
3 the words “public safety,” in line 55, the following words:— or, in  
4 the case of programs outside of the commonwealth, authorized for  
5 use by the department of public health in consultation with the  
6 registrar and the secretary of public safety.

1 SECTION 16. Said chapter 90, as so appearing, is hereby  
2 amended by inserting after section 24P, the following section:—

3 Section 24Q.

4 (a) Whoever, upon any way or in any place to which members  
5 of the public has a right to access, or upon any way or in any  
6 place to which members of the public have access as invitees or

7 licensees, operates a motor vehicle with a percentage of weight, of  
8 alcohol in his blood of eight-one hundredths or greater, or while  
9 under the influence of intoxicating liquor, or of marijuana, nar-  
10 cotic drugs, depressants or stimulant substances or the vapors of  
11 glue, in violation of sections 24, 24G or 24L, while a child under  
12 the age of 14 is in the vehicle, shall be punished by imprisonment  
13 in the house of correction for not more than 6 months and a fine of  
14 not more than \$10,000.

15 (b) In accordance with section 8A of chapter 279, such sentence  
16 shall begin from and after the expiration of the sentence for viola-  
17 tion of said sections 24, 24G or 24L.

18 (c) The registrar may extend, for an additional 2 months, any  
19 suspension or revocation of a license or right to operate imposed  
20 for violation of said sections 24, 24G or 24L, on any person that  
21 violates this section.